Remarks/Arguments:

Claims 6 to 9, 23 to 25, 29, 32, 33, 35 to 39, 71, 72, 74 and 75 are pending in the case. Claims 6 to 8, 25, 29, 32, 33, 35, 36, 38 and 39 have been amended to more clearly present the invention and differences between the amended claims and the previously pending claims should not be viewed as acquiescence to any of the Examiner's rejections. Claims 1 to 5, 10 to 22, 26 to 28, 30, 31, 34, 40 to 70, 73, 76 and 77 have been canceled. Applicant reserves the right to pursue one or more of the originally filed claims, for example, in one or more related applications. This amendment includes no new matter.

The Examiner requests that applicant update the status of the applications throughout the specification prior to allowance. Applicant has amended the specification in accordance with the Examiner's comments.

The Examiner rejects claims 1 to 4, 6 to 9, 23 to 26, 29 to 33, 35 to 39 and 71 to 75 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant traverses the rejections.

The Examiner rejects claims 1 to 3 stating that the claims remain indefinite because the structural features that define chicken matrix attachment regions (MAR) vary and are not defined in the specification or known in the art.

To facilitate prosecution of the case applicant has canceled claims 1 to 3.

The Examiner states that the metes and bounds of what applicants consider "tissue-specific expression" cannot be determined in claim 31 and that the phrase does not have an art accepted meaning. Applicant disagrees with the Examiner that the phrase does not have an art accepted meaning and requests that the Examiner reconsider the rejection.

For example, a search of the US Patent Office database of issued patents which contained the phrase "tissue specific expression" which were filed between 01/01/1970 and 12/10/2003 (i.e., before the filing date of the subject patent application) reveals over 3,200 hits showing that the phrase was well known and well used in the art at the time of filing the present application.

The Examiner states that the metes and bounds of when a sequence encodes a polypeptide having a codon optimized for protein expression in claim 37 cannot be determined and that it cannot be determined what is being optimized or what is optimal and that those of skill would not be able to determine when a codon was optimized. Applicant disagrees with the Examiner's conclusion and

requests that the Examiner reconsider the rejection.

For example, a search of the US Patent Office database of issued patents which contained the phrase "codon optimized" which were filed between 01/01/1970 and 12/10/2003 (i.e., before the filing date of the subject patent application) reveals about 280 hits showing that the phrase was well known and well used in the art at the time of filing the present application.

The Examiner states that claims 1 to 4 are indefinite because they do not clearly limit the amount of identity to SEQ ID NO: 1. Claims 1 to 4 have been canceled making the rejection unnecessary.

The Examiner indicates that claims 7 and 8 are indefinite because they do not clearly further limit the amount of identity to SEQ ID NO: 1. Applicant has amended the claims to make the claims more clearly change the claim limitations.

The Examiner states that claim 26 is indefinite because it is unclear how "wherein the nucleic acid molecule is a recombinant nucleic acid molecule" further limits the nucleic acid molecule. Applicant has canceled claim 26.

The Examiner states that claims 29 to 31 lack antecedent basis in claim 26 with regard to "the ovalbumin transcriptional regulatory region". Applicant has amended claim 29 and canceled claims 30 and 31 thereby complying with the Examiner's comments. Applicant has also amended claim 29 to remove the hyphen from the phrase "polypeptide-encoding", to add consistency to the claims.

The Examiner states that the phrase "the Internal Ribosome Entry Site" of claim 33 lacks antecedent basis. Applicant has amended the claim to depend from claim 32 thereby providing proper antecedent basis.

The Examiner states that claim 35 is indefinite because it is dependent upon claim 34 which has been canceled. The dependency of claim 35 has been amended to depend from claim 6.

The Examiner states that claim 39 is indefinite because the claim does not make sense. Applicant has amended claim 39 to make the claim more clear.

Applicant has made the following amendments to correct dependencies and/or to make the claims more clear. Claim 6 has been amended to make it more clear that the nucleic acid is isolated. Claim 25 has been amended to depend from claim 6. Claim 32 has been amended to depend from claim 6. Claim 33 has been amended to depend from claim 32. Claim 36 has been amended to depend from claim 6. Claim 38 has been amended to depend from claim 23.

In conclusion, applicant believes the pending claims meet the requirements for patentability and therefore, applicant submits that the claims are allowable and respectfully requests the Examiner to pass the above-identified application to allowance.

Applicant believes that no fee is required for submission of this statement. However, if a fee is required, the Commissioner is authorized to deduct such a fee from Deposit Account No. 501729. Please deduct any additional fees from, or credit any overpayment to, the above-noted Deposit Account.

If any issues remain to be addressed in this matter, which might be resolved by discussion, the Examiner is respectfully requested to call applicants' undersigned counsel at the number indicated below.

Respectfully submitted,

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